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SUBJECT: ATTORNEY GENERAL PRAISES US-EU EFFORTS TO FIGHT  
COUNTERTERRORISM AT JHA INFORMAL COUNCIL IN THE HAGUE ON  
SEPT. 30

REF: (A) The Hague 2507 (B) The Hague 2445

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1. (U) SUMMARY: In a JHA Troika meeting and a meeting on the margins of the JHA Informal Council, AG Ashcroft and DHS U/S Hutchinson praised EU cooperation with the U.S. in fighting terrorism. These meetings built on the September 18 EU Troika meeting attended by DHS Sec. Ridge (Reftel B) and reflected the EU's effort to include the AG and DHS Secretary in JHA processes. The AG urged greater

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information sharing to ensure the freedom and security of US and EU citizens. The U.S. and EU agreed to group information in three categories - police/judicial, intelligence and borders security - allowing it to be shared and protected differently. The AG announced the assignment of an FBI Agent to Europol for joint cooperation on counterterrorism. [Note: Sec. Ridge had announced the assignment of a Secret Service Agent to assist with counterfeiting cooperation.] EU President Dutch Justice Minister Donner pledged to institutionalize annual US-EU JHA Ministerial meetings, stating that EU Ministers would invite both the DHS Secretary and AG to future JHA sessions. The U.S. and EU also agreed to use Eurojust as a forum for sharing best practices/lessons learned in fighting terrorism. During his two-day trip, the AG signed bilateral protocols with the Dutch and French implementing the US-EU Mutual Legal Assistance and Extradition Agreements (MLA&E).  
END SUMMARY.

JHA TROIKA MEETING

2. (U) The AG and DHS Under Secretary Hutchinson visited The Hague Sept. 28-30 to address the Justice, Home, Interior and Immigration Ministers of the EU Member States on the margins of the Sept. 30 EU JHA Informal Council. The AG and U/S had an informal working dinner Sept. 29 with the EU JHA Troika (NL Justice Minister Donner, LUX Justice Minister Frieden, JHA EU Commissioner Vitorino) to focus on CT law enforcement efforts. Donner reviewed the Sept. 18 Troika discussions with DHS Sec. Ridge (Reftel B) and proposed using the Sept. 30 address to send the message that fighting terrorism was a "common project." The U.S. and EU agreed to focus on advancing issues both sides agree on and de-emphasized areas of controversy, re-casting them as pursuits towards a common purpose. The AG thanked the JHA Troika for their willingness to give the U.S. a chance to be heard in their discussions and expressed appreciation for EU CT cooperation since 9/11. The agenda included a discussion of information sharing, prevention of terrorism, US cooperation with Europol and Eurojust, and a brief discussion of the Hague Securities Convention.

3. (U) On the topic of information sharing, Donner proposed dividing the problem of information sharing into three general categories: criminal/judicial, CT intelligence and border and transportation security since each has its own particular issues. U/S Hutchinson and Commissioner Vitorino both agreed differentiating between different types of information was useful. The U/S stated, for example, border security information sharing, especially the sharing of passport information and biometric data, should comprise a separate category with different processes and requirements for the exchange and use of information. The AG agreed with Donner to continue discussions to improve sharing of criminal/judicial information in the established JHA dialogue. On the issue of intelligence sharing, the AG stated it would be useful to have experts, in particular magistrates and prosecutors, convene for discussions under the auspices of Eurojust. As to border and transportation security, the AG agreed with the U/S it would be appropriate to channel those discussions into the Policy Dialogue on Border and Transport Security (PDBTS). The AG stressed that while such classification provided a useful analytical framework, he warned against "stovepiping" and the creation of bureaucratic obstacles to information sharing. He argued any framework should serve to remove obstacles, not set in place new ones. Frieden commented that while the need to share and exploit border and transportation security information existed, unnecessary access to it must be

strictly controlled. He suggested a step-by-step approach, whereby parties could set up a timetable and roadmap for greater information sharing. The AG also announced the creation of an FBI liaison to Europol as means by which to enhance information sharing.

14. (U) Vitorino called for greater dialogue on future initiatives changing collection and use of information. He noted the U.S. had led the way in seeking additional information, like with PNR and biometrics, and Europe usually followed suit, since the EU shared the same CT concerns as the U.S. He stressed, however, that it was easier to EUR to act in concert with U.S. information requests when it was seen as a true partnership - and not as Europe following U.S. dictates. Advance notice of new initiatives on information sharing allowed policies to be debated and developed on both sides of the Atlantic. He cited the PNR initiative as catching Europe off-guard and asked for prior consultation on how the U.S. would address the September 11 Commission recommendations so Europe could prepare for any new changes. EU CT Coordinator De Vries echoed his comments.

15. (U) Under "prevention of terrorism," Vitorino admitted freezing assets within the EU was cumbersome as it required consent of all 25 Member States. The EU Commissioner said the EU needed a legal framework to improve the exchange of information and registration of bank accounts, and a means by which to secure the cooperation of financial institutions. Donner proposed a meeting of experts organized through Eurojust to address signs and signals of terrorism - this meeting would review existing completed cases to "tease out" facts helpful in understanding the terrorists. A separate expert group would profile of those most susceptible to recruitment for Jihad. There was also a need for an expert group to organize the joint forensic examination of frozen assets. The AG agreed such expert meetings were needed. USEU DoJ Senior Counselor Richard highlighted ongoing projects in Europol and Eurojust.

16. (U) The U.S. and EU agreed to work to improve cooperation between US law enforcement agencies and Europol. Richard suggested using Eurojust as a forum for expert group meetings on developing intelligence and sharing experiences. De Vries agreed that using Europol and Eurojust as frameworks for upgrading contacts between U.S. law enforcement would be excellent.

17. (U) In a final comment, Vitorino broached the subject of the Hague Securities Convention, suggesting it could be adopted by the end of the year. The AG responded that while the US foresees no obstacles to the progress of the convention, it was being vetted through the interagency process.

MEETING WITH EU MEMBER STATES MINISTERS ON THE MARGIN OF THE JHA INFORMAL

18. (U) At the Sept. 30 meeting of the EU Member State JHA ministers, Donner re-iterated his theme from the previous night - that the U.S. and EU had a "common interest to improve common capacity" to fight terrorism and both have common objectives to keep Europe safe. He announced the results of the Troika meetings with AG Ashcroft and Sec. Ridge: agreement to group information in three categories - police/judicial, intelligence and borders security; assignment of FBI and Secret Service agents to Europol; agreement to use Eurojust as a forum for CT "lessons learned" and meetings of CT experts; expansion of the role of both Eurojust and Europol to deal with terrorist financing; and the status of the Hague Convention on Securities. Donner also raised the issue of VWP access for new Member States. Donner noted the Netherlands had just signed its bilateral protocols implementing the US-EU Mutual Legal Assistance and Extradition Agreements and urged other Member States to complete the process as quickly as possible. Vitorino stressed the same point.

19. (U) The AG expressed appreciation to his EU counterparts for their CT efforts and for meeting the challenges posed after 9/11. He stated democratic nations must protect the laws and liberties of people. He also called for increased efforts to establish durable transatlantic ties and for improved law enforcement and CT efforts to protect people against crime and terrorism: "We have a common and ruthless enemy." He announced that an experienced FBI agent would be posted in The Hague to work with Europol and looked forward for the opportunity to work with Eurojust on information sharing. In closing, the AG highlighted corruption as a major force contributing to terrorist recruitment.

10. (U) U/S Hutchinson told the ministers the U.S. was creating principles and guidelines to limit problems on border security issues. He said the U.S. was anxious to share best practices with the EU on transportation security

and he welcomed a dialogue on the Visa Waiver Program with Member States. Speaking on the first day travelers from VWP countries were being enrolled in US VISIT, he stressed the importance of the program in establishing identity. In reference to the upcoming VWP deadline for machine readable passports, he pledged the U.S. would not turn people away the first time solely for not carrying the proper machine readable passport.

#### FRENCH, GERMAN, POLISH AND ROMANIAN MEETINGS

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¶11. (U) The AG also met with French Justice Minister Perben, and they signed the U.S.-French protocols to the US-EU MLA&E Agreements. The AG thanked Perben for French counterterrorism assistance and discussed the Moussaoui case. The AG agreed to look into the status of the remaining three French nationals at Guantanamo. AG Ashcroft also met with German Interior Minister Schily and discussed the Motassadeq case. In the meeting with The AG's discussions with Polish Interior Minister Kalisz and Deputy Justice Minister Krolak, the AG addressed law enforcement issues, including organized crime and Poland's inability to extradite nationals. The Polish ministers raised several mutual legal assistance and prisoner transfer matters, but focused particularly on the visa waiver issue, noting Poland was a strong ally in Iraq. They also expressed concern over Chechens seeking asylum. The AG met with Romanian Administration and Interior Minister Saniuta and Justice Minister Diaconescu and discussed Romania's anti-corruption efforts and the SECI center. The AG praised Romania's new willingness to extradite nationals, suggesting that might pave the way for a modernized extradition treaty.

#### OTHER MEETINGS FOR THE ATTORNEY GENERAL

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¶12. (U) Following the Sept. 29 signing of the US-Dutch bilateral protocol to the US-EU Mutual Legal Assistance and Extradition Agreements (Reftel A), the AG met with Donner and senior Justice Ministry officials to discuss bilateral law enforcement efforts. The AG praised new Dutch CT legislation and proposals, especially those aimed at preventing terrorist acts. He also applauded Dutch efforts to fight Ecstasy, but urged the Dutch to consider all organized crime (and CT) as having a US nexus and to share information on drug traffickers accordingly. Donner responded with examples of greater Dutch information sharing, stating the Netherlands was concluding the first European agreement with the DEA to join EPIC, and Dutch barriers to the sharing of information on drug traffic through third countries were being abolished. [Note: DEA Administrator Karen Tandy signed this agreement with the Dutch October 8.] The Justice Minister agreed in principle to the US request for access to the "blacklist" - a list of passengers from the Netherlands Antilles caught trafficking drugs through Schiphol. He said, however, the U.S. must explain precisely the intended recipients of the information and how the information would be used in order to satisfy his data protection concerns. The AG agreed to work with the Justice Minister to satisfy his data protection objectives.

¶13. (U) The AG praised the Dutch attitude toward extraditions as "constructive." Donner asked about the remarks on Dutch extradition contained in the President's Majors List transmittal letter and received assurances these comments reflected only a small number of specific cases but did not reflect the broader relationship. Donner briefly touched on asset seizure, stating the Dutch would like to move in the direction of the Camden Asset Recovery Interagency Network (CARIN) network discussed last week in The Hague.

¶14. (U) The AG also met with senior Dutch CT officials on Sept. 29 and with senior Dutch prosecutors on Sept. 30, stressing the themes of positive cooperation and partnership with the Dutch on CT and law enforcement, as well as the need to continue the fight against crime and terrorism.

¶15. (SBU) AG Ashcroft met with International Criminal Tribunal for the former Yugoslavia (ICTY) President Ted Meron and Chief Prosecutor Del Ponte in separate courtesy calls during his visit. Meron reviewed the structure of the Court, highlighting the distinction between its ad hoc Security Council-derived nature and that of the International Criminal Court (ICC). Meron also underscored his efforts to guide the Tribunal towards a successful completion of its mandate. Del Ponte expressed frustration at the number of outstanding fugitives, noting that U.S. led forces had been able to apprehend Saddam Hussein and she didn't know "why it was so difficult to get Karadzic and Mladic." The AG reassured Del Ponte of the U.S. commitment to seeing such fugitives apprehended and explained that other major terrorist fugitives, despite the best efforts of the United States, remained outstanding. Deputy Prosecutor David Tolbert described the ICTY Prosecutor's support of war

crimes-related investigations and prosecutions being conducted by AUSA's in Boston, Phoenix and North Carolina. The AG thanked Del Ponte for her support these efforts and conveyed DOJ's willingness to provide any assistance needed in the Tribunal's investigation and prosecution of war crimes.

16. (U) AG Ashcroft, with Assistant AG Hewitt Pate, had a 30-minute introductory meeting with newly appointed European Commissioner for Competition Policy Neelie Kroes. The AG noted how pleased he had been when he had first heard of Mrs. Kroes's appointment in light of her extensive business experience and how that could inform her decision-making. He complimented Mrs. Kroes on her performance at the European Parliament the day before, when she had defended herself against allegations her business background would bias her decisions; Mrs. Kroes had said that, like a soccer referee, her knowledge of the business world would make her a more informed, though nonetheless impartial, arbiter of the issues before her. Both the Attorney General and Mrs. Kroes stressed the need for a vigorous pro-competitive policy as an essential factor for achieving economic progress, with the AG saying those who sought protection from competition were in reality trying to protect themselves from the future. Mrs. Kroes promised to continue the cooperation and open communication with the Justice Department that had been practiced by her predecessor, Mario Monti.

#### U/S HUTCHINSON'S PROGRAM

17. (U) In addition to his participation in EU meetings with the Attorney General, the U/S held bilateral meetings with Dutch border and transportation security officials and European private sector stakeholders. On September 29, he received a briefing from Port of Rotterdam officials on how they have been able to comply with international, EU and national shipping security requirements. The Port officials explained how they use a web-based port security "wizard" to aid its 142 constituent terminals in achieving ISPS code. The U/S and his staff also observed the real-time, high tech port traffic control center. The following day, the U/S held discussions with Schiphol Airport customs, immigration and security officers and met with the ISI team. Discussions highlighted the successes of ISI, a program supported by the airlines, Dutch Immigration Services, and Royal Marechaussee. The U/S also viewed a demonstration of the airport's iris-scan based Privium trusted flier program.

18. (U) The Under Secretary also met with Dutch Justice and Interior Ministries officials, including Tjibbe Joustra, the newly appointed counter-terrorism coordinator, and discussed Joustra's plan to restructure Dutch CT efforts. The U/S invited Joustra to visit the US. He also visited the National Coordination Center, a 24/7 operations center for handling crisis situations. Finally, the U/S met with executives from European companies and the Ministry of Transportation to consult on new border and transportation security technologies under development.

#### PRESS

19. (U) Press covered the two bilateral protocol signings and the JHA press conference. About 100 members of the media attended the press conference at which Attorney General Ashcroft explained the challenges the U.S. and the EU had faced since 9/11 and 3/11 and expressed his appreciation for the cooperation the U.S. had experienced with the EU. He spoke of the goal of every government to protect its people against crime and terrorism. The AG referred to a common and ruthless enemy and cited the steps the U.S. and the EU were taking together against this enemy. Coverage from these events resulted in over 52 stories worldwide, emphasizing the AG's comments about working multilaterally against a common enemy, reinforcing the story that terrorism is not just an American issue. [Note: This followed similar coverage of Secretary Ridge's visit, which resulted in over 82 stories worldwide.]

#### COMMENT

20. (U) The visits by the AG and DHS Secretary and U/S - all covered extensively in the press - highlighted US-EU aims to establish additional forums for future cooperation. The two sides emphasized commonalities - a theme carried by both Secretary Ridge and the AG. Post is encouraged by the

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progress made during the successive US-EU Troika meetings, and looks forward to the follow-through pledged by Frieden and the British to ensure the US voice is heard during future JHA Ministerial discussions.

21. (U) This cable has been cleared in draft by DOJ and DHS.

SOBEL